

Resolution No. R-08-2021

Adopted: April 12, 2021

A Resolution of the Mayor and Council of the Town of Kensington demanding that the Montgomery County Executive and County Council approve the proposed amounts of tax duplication funds in the FY22 County Budget totaling \$10,933,731 for transportation as calculated and presented by the Executive's staff in the "FY22 Municipal Tax Duplication Payment Summary: Revised Methodology" worksheet, and work diligently to negotiate fair payments for the other services and police tax duplication (for the four municipal police departments) rebate for FY23.

WHEREAS, municipal governments in Maryland have little authority to set rates for revenue other than for real property tax, unlike municipalities in other states which can often set the levels of sales, income, energy, telephone, transfer and other tax rates based on the needs of their communities; and

WHEREAS, in municipalities in Maryland, property owners pay property tax to both county and municipal governments and often there are payments to both governments for services that are provided by only the municipality; and

WHEREAS, in these cases, municipal property owners are unfairly paying too much in property taxes and should either not be charged for the services they are not receiving from the county or the municipality should receive a rebate from the county of the funds; and

WHEREAS, for over six decades there have been discussions about how the tax duplication issue should be addressed in Maryland, in Montgomery County and in the respective Montgomery County municipalities without full resolution, resulting in substantial overpayments of property taxes to Montgomery County from property owners in the municipalities; and

WHEREAS, since the recession of 2012, municipal tax rebate payments from Montgomery County to county municipalities for transportation (road maintenance), park maintenance, crossing guards and police services have been substantially frozen or non-existent, while the costs of providing these services in the County and in the municipalities have significantly increased; and

WHEREAS, as an example, when a comparison was done between what the County calculated would have been paid based on previously agreed upon formulas for the FY18 budget and the frozen amount, it was determined that the County should have paid over \$6 million more as a rebate to the municipalities for that year alone; and

WHEREAS, the County law does not restrict the tax duplication rebates to be limited only to the proportion of the services paid by County property tax revenue; and

WHEREAS, under the previous County Executive, an argument was made that despite the broader language of the County law, tax duplication only applied to 40% of the amount spent on services because only 40% of the County's revenue comes from property tax while 60% of its tax revenue comes from income tax, and for that reason identified any rebate funds that were over 40% of the formula amount as "grants;" and

WHEREAS, in Maryland, municipalities do not have the revenue sources of counties and cannot establish income tax rates for its jurisdictions; by State law municipalities receive 17% of the income tax amount paid by their residents to their county and through this provision some municipalities receive less than 15% of their revenue from income tax; and

WHEREAS, there is now a proposal put forward by Montgomery County municipalities that has been discussed with County officials to adopt a permanent process for updating formulas, paying rebates, and, as a first step, for Montgomery County to pay an agreed-upon formula amount for transportation (road maintenance) to municipalities in Montgomery County and to negotiate payments for police services for the four municipal departments in Chevy Chase Village and the cities of Gaithersburg, Rockville and Takoma Park; and

WHEREAS, there was no movement on the proposal for the FY20 budget, but there was agreement to pay the transportation (road maintenance) rate in the FY21 budget, which provided increases for most municipalities; and

WHEREAS, the pandemic hit at the beginning of the consideration of the FY21 budget and the County Council, without advance notice, voted to maintain the previous level of payments; and

WHEREAS, in February 2021, the County Executive said he would put forth the transportation (road maintenance) tax duplication number again as part of his proposed budget and the County's Chief Administrative Officer has identified staff with whom to begin discussing police payments for the FY23 budget year; and

WHEREAS, given the history of these discussions since the 1940's as summarized on the attachment, the Montgomery Chapter of the Maryland Municipal League, representing 21 municipalities consisting of almost 175,000¹ county/municipal residents (over 16% of the county's population), demands that the issue be resolved now; and

WHEREAS, as shown in the attached document regarding tax duplication history, residents of Montgomery County municipalities have been harmed for a decade regarding tax duplication payments in general, and for 21 years regarding tax duplication payments for Takoma Park

¹ Source: Maryland Department of Planning:

https://planning.maryland.gov/MSDC/Pages/pop_estimate/popest_muni.aspx

police services and must be made whole; and

WHEREAS, the Montgomery Chapter is cautiously optimistic that negotiations can reopen with County staff to finalize the updates to the tax duplication program and to establish an accurate formula for a rebate for police services; and


WHEREAS, the American Recovery Plan Act of 2021 will provide funds to both counties and municipalities but the funds cannot go to the ongoing services tax duplication funds address; and will not address the decades-long unjust policy of double taxing of property owners.

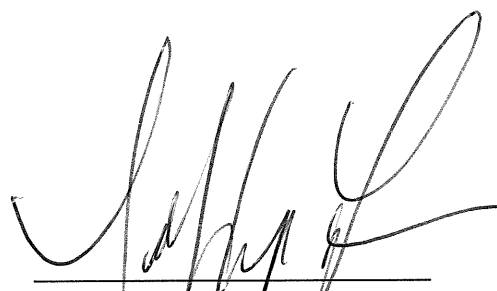
NOW, THEREFORE, BE IT RESOLVED THAT the Mayor and Town Council of Kensington demands that the Montgomery County Executive and County Council approve the proposed amounts of tax duplication funds in the FY22 County budget totaling \$10,933,731 for transportation as calculated and presented by the Executive's staff in the "FY22 Municipal Tax Duplication Payment Summary: Revised Methodology" worksheet, and work diligently to negotiate fair payments for the other services and police tax duplication (for the four municipal police departments) rebate for FY23.

ADOPTED by the Town Council of Kensington, Maryland at the regular public meeting assembled on the 12th day of April, 2021.

EFFECTIVE the 12th day of April, 2021.

ATTEST: TOWN OF KENSINGTON, MARYLAND

By: 
Susan C. Engels, Clerk – Treasurer


Tracey C. Furman, Mayor

**ATTACHMENT TO RESOLUTION
DEMANDING FAIR TAX DUPLICATION PAYMENTS
(ADOPTED ON _____, 2021)**

**SUMMARY OF MAJOR POINTS IN HISTORY OF
TAX DUPLICATION DISCUSSIONS**

- In 1946, the Maryland Commission on the Distribution of Tax Revenues recognized the need to address the tax duplication issue and established the State sharing of tax revenues with local governments and provided for the distribution of tax revenues between counties and municipal corporations.
- These State actions refer primarily to the distribution of property tax revenue, but the actions were taken in conjunction with removing the authority for municipalities to set other fees and taxes.
- In the 1940s, an amount was set in the Montgomery County Code specifying a “Takoma Park Police Rebate” that was calculated based on a property assessment formula.
- In 1973, Montgomery County added Chapter 30A, “Montgomery County –Municipal Revenue Program” to the County Code; it provides for a reimbursement for those services provided by municipalities that would otherwise have been provided by Montgomery County.
- In 1996, the Montgomery County Tax Duplication Task Force recommended specific rebate formulas for transportation (road maintenance), park maintenance, code enforcement, and other services, which were adopted by the County Council; and separate discussions took place between the County and City of Takoma Park on the police rebate and how to handle payments related to the Takoma Park Library once all of Takoma Park became part of Montgomery County in 1997.
- The County paid the formula amounts to municipalities for transportation (road maintenance), park maintenance, code enforcement, and other services annually until 2013, even though some of the formulas became out of date.
- In 2000, the County and City negotiated a formula regarding the rebate for Takoma Park police services that computed what the County would have spent on providing police services to Takoma Park less the amount the County Code specified “Takoma Park Police Rebate” amount the City should receive; however, within a year, the County attempted to unilaterally reduce the Takoma Park police tax duplication formula without renegotiation, with the City only learning of the change when action was before the County Council.

- Since 2001, there have been committees and task forces studying tax duplication formulas and revenue sharing ideas, and making recommendations, without resolution.
- During the last twenty years, the municipalities have repeatedly requested renegotiation of the municipal tax duplication payment for police services; one negotiation process came to an agreement at the staff level but ended with the report being stalled by the County Budget Director at the time and then did not proceed when the recession affected Maryland governments in 2011.
- In 2011, the recession hit Maryland state, county and municipal revenues very hard; for the FY2012 budget, the Montgomery County Executive proposed cutting the municipal tax duplication payments by 25%, and then the amount was reduced by the County Council to a cut of 15%, with an additional payment to the City of Takoma Park for police services.
- The amounts paid by Montgomery County to its municipalities have been largely frozen since 2012.
- On June 18, 2013, the Office of Legislative Oversight issued Report Number 2013-6 regarding Municipal Tax Duplication and Revenue Sharing and recommended consideration of a change to the County Code to permit payments to municipalities for some services that were provided by both the County and the municipalities, such as police services in Gaithersburg, Rockville and Chevy Chase Village, and discussions related to the payment formulas for these shared services have taken place but need to be finalized.